

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID MICHAEL AARON BAKER,

Plaintiff,

v.

CHERYL STRANGE, et. al.,

Defendants.

CASE NO. 23-5072 RJB-TLF

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge Theresa L. Fricke. Dkt. 37. The Court has considered the Report and Recommendation and the remaining file.

On January 26, 2023, the Plaintiff, a *pro se* prisoner, filed an application to proceed *in forma pauperis* (“IFP”) and a proposed civil complaint. Dkt. 1. His application for IFP was granted (Dkt. 8) and his complaint was filed (Dkt. 9). The Complaint alleges that the Defendants violated the Plaintiff’s federal constitutional rights when they rejected of two forms of sexually explicit material that were sent to the Plaintiff while he was incarcerated. Dkt. 9.

On January 26, 2024, the Report and Recommendation was filed; it recommends that the Defendant's motion for summary judgment (Dkt. 29) be granted and the Plaintiff's claims be dismissed. Dkt. 37. It further recommends that the Plaintiff's IFP status continue if he chooses to file an appeal. *Id.*

The Report and Recommendation (Dkt. 37) should be adopted. Even viewing the facts in a light most favorable to the Plaintiff, he has not shown that there are genuine material issues of fact in dispute. As stated in the Report and Recommendation, the Defendants have shown that they are entitled to a judgment as a matter of law. Fed. R. Civ. P. 56(a). The Defendants' motion (Dkt. 29) should be granted and the Plaintiff's claims should be dismissed. The Plaintiff's IFP status should continue if he chooses to file an appeal.

ORDER

It is **ORDERED** that:

- The Report and Recommendation (Dkt. 37) **IS ADOPTED**;
- The Defendants' Motion for Summary Judgment (Dkt. 29) **IS GRANTED**;
- The Plaintiff's claims **ARE DISMISSED**; and
- If he chooses to file an appeal, the Plaintiff's IFP status **CONTINUES**.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing pro se at said party's last known address.

Dated this 21st day of February, 2024.



ROBERT J. BRYAN
United States District Judge